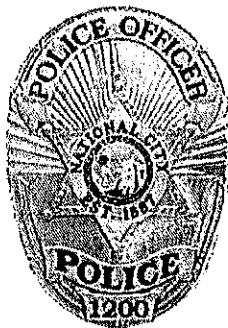


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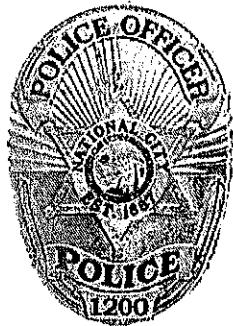
INTERNAL AFFAIRS CASE # 15-5-D

ACCUSED EMPLOYEE(S): Officer Javier Cornejo

COMPLAINANT: Department Initiated

INVESTIGATOR: Sergeant David Bavencoff

CONFIDENTIAL



NATIONAL CITY POLICE DEPARTMENT

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Time of Incident: 0823

Location of Incident: 2700 E. 17th Street, National City

Subject: Officer Involved Shooting

CONFIDENTIAL: THIS REPORT IS FOR THE EXCLUSIVE USE OF
THE CHIEF OF POLICE AND/OR CITY ATTORNEY

COMPLAINANT: Name: N/A
DOB:
Address:
Phone:

SUBJECT OFFICER: Name: Javier Cornejo
Rank: Officer
NCPD ID # 427
Date of Hire: 1/18/2005
Assignment at time of incident: Patrol

WITNESS OFFICER(S): Name: John McGough
Rank Officer
NCPD ID # 448
Date of Hire: 6/5/2007
Assignment at time of incident: Patrol

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SUMMARY:

On 4/16/15, at about 0823 hours, officers John McGough and Javier Cornejo contacted Jesus Leos (DOB: 2/25/85) sitting in the driver's seat of a Chevrolet Silverado in the 2700 block of E. 17th Street following a radio call of a suspicious vehicle. Also in the truck were [REDACTED] (DOB: [REDACTED]) and a [REDACTED] boy. Leos was holding a marijuana pipe in his hand and displayed objective symptoms of being under the influence of a controlled substance.

Officer McGough approached the driver's side of the vehicle while Officer Cornejo approached the passenger side. Officer McGough spoke to Leos while Officer Cornejo spoke to [REDACTED]. Both Leos and [REDACTED] were evasive in their responses as to why they were in the area and whether or not the truck belonged to them.

Officer McGough conducted a records check on Leos and was told by NCPD Dispatch that Leos had a felony warrant for his arrest for a weapons related offense. Leos knew he had a warrant for his arrest and appeared to understand from the officers' demeanor and the radio traffic that he was about to be arrested. Leos turned the key in the truck's ignition and started the truck. Officer Cornejo pointed his handgun at Leos and told him to stop. Officer McGough opened the driver's door of the truck and tried to pull Leos out of the truck. Leos put the truck in reverse and began to accelerate backward. Officer McGough discharged his [REDACTED] at Leos. The [REDACTED] was ineffective and Leos continued to drive quickly in reverse. Officer McGough was struck by the truck, knocked to the ground, and drug.

Officer Cornejo saw Officer McGough being drug by the truck and feared he would be killed. Officer Cornejo fired his handgun at the [REDACTED] [REDACTED] Officer McGough from being seriously injured or killed. The [REDACTED] and it [REDACTED] dragging Officer McGough. Officer Cornejo pointed his handgun at Leos and fired at him in an attempt to prevent Leos from continuing to operate the truck and potentially kill or seriously injure Officer McGough.

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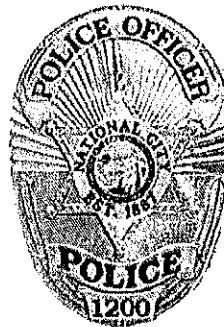
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Officer McGough broke loose from being drug by the truck and lay motionless on the ground. Leos stopped the truck, put it in drive, and began to drive forward in the direction of Officer Cornejo and Officer McGough. Officer Cornejo believed Officer McGough was dead or unconscious. Officer Cornejo believed Leos was going to attempt to run over him or Officer McGough. Officer Cornejo fired his handgun at Leos in an attempt to protect Officer McGough and himself from death or serious injury.

Leos was struck in the right arm by one of Officer Cornejo's fired bullets. The projectile traveled through Leos' arm and into his chest cavity, but did not prevent Leos from driving away. Leos fled the scene and was arrested about an hour later. He was transported to the hospital and treated for his gunshot wound. He subsequently pled guilty in court to charges related to this incident and was sentenced to prison.

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ALLEGATIONS:

This is a department initiated review of an Officer Involved Shooting to determine if the shooting was within policy.

DEPARTMENT OPERATING PROCEDURE 52, FORCE, USE OF:

The National City Police Department Use of Force Policy states in part:

I. PURPOSE

To establish Department policy for the use of force and reporting requirements and to specify various types of Department-authorized weapons to be used in conjunction with the necessary application of force.

AUTHORITY FOR USE OF FORCE

Section 835a of the California Penal Code states:

"Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

A peace officer who makes, or attempts to make, an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance."

Reasonable force may be applied, when necessary, consistent with California Penal Code Section 835a, to make arrests, prevent escapes or overcome resistance. Officers shall use

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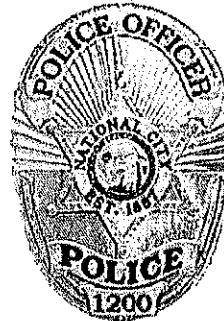
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good judgment and shall not use more force in any situation than is necessary to effect lawful objectives and is appropriate under the circumstances. Reasonable force is force that is objectively reasonable in light of the totality of facts and circumstances confronting an officer, without reference to an officer's underlying intent or motive in applying that force.

The totality of facts and circumstances may include, but shall not be limited to, consideration of the following:

- Threat level to officer safety, including opposing weaponry and resistance Degree of danger to innocent or unsuspecting bystanders
- Availability of backup
- Relative risk of serious injury
- Physical characteristics, aggressiveness or resistance level of suspect(s) Mental or physical impairment of suspect(s)

Deadly force against any person, including a fleeing felon, may only be used when an officer reasonably believes that the action is necessary as a means for: self-defense from death or serious injury; defense of another officer from death or serious injury; defense of any other victim or person from death or serious injury; the prevention of a crime in which human life is in serious jeopardy as a result of a suspect's actions; or, the apprehension or prevention of rescue of a fleeing felon where the felony is a forcible and atrocious one which threatens - death or serious injury.

Good judgment must be exercised when discharging a firearm as a means of deadly force. An officer must have a reasonable belief that the use of deadly force is justified before discharging a firearm at a person. Deadly force shall not be used on mere suspicion that a crime, no matter how serious, was committed, or that a person being pursued had committed a crime, or that a suspect is armed with a firearm or dangerous weapon.

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INVESTIGATION:

On 4/16/15, at about 0835 hours, Sergeant Cameon advised me he had heard over the police radio that shots had been fired and an officer was down in the 2700 block of E. 17th Street in National City. Sgt. Cameon and I responded to National City from the San Diego Coast Guard base. On arrival in National City, I heard over the police radio that units were requested to assist with setting up a perimeter inside the La Vista Cemetery. Sgt. Cameon and I responded to the cemetery.

While in the cemetery, I heard Officer Adams advise over the police radio that she and a deputy sheriff had located the suspect inside a building on the cemetery grounds. I responded to that location. Upon entering the building Officer Adams and the deputy sheriff were giving verbal commands to a subject I could not see on an upper storage level. I asked Officer Adams if the subject, later identified as Jesus Leos, was being compliant. Officer Adams told me he was for the most part but that he was not completely following their directions.

After a few minutes of verbal commands from Detective Ramirez, Leos worked his way down the stairs. As he was working his way down the stairs. He repeatedly said, "I'm sorry", "Is the officer okay?", and something similar to "I didn't mean to hurt him" or "I wasn't trying to hurt him." I could see Leos was bleeding from what appeared to be a gunshot wound to his upper right arm. I had donned latex gloves so I asked Officer Adams, who was not wearing gloves, for her handcuffs. Detective Ramirez verbally directed Leos down to his knees and I handcuffed him. I conducted a brief pat down search of Leos and did not locate any weapons.

Detective Ramirez and I escorted Leos out of the storage building and I asked the nearby officers if any of them had an "IFAK" (first aid kit). The deputy U.S. Marshal responded that he had one and I asked him for the pressure bandage from his kit. The deputy handed me the plastic wrapped bandage, but due to the significant amount of blood on my gloves I asked the deputy sheriff to open the bandage. Detective Ramirez removed the bandage from the wrapper and he and I bandaged Leos' gunshot wound to the arm. Throughout

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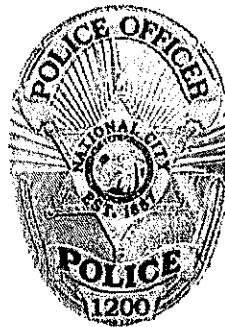
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this process Leos continued to make statements that he was sorry, that he didn't mean it, and asked if the officer was okay.

NCFD and AMR personnel arrived and removed Leos from the scene.

Sgt. Cameon and I went to the 2700 block of E. 17th Street where Lt. Fifield briefed us. Lt. Fifield told me officers McGough and Cornejo had contacted a man (Leos) inside a truck parked off of the 2700 block of E. 17th Street. A records check had revealed Leos' had a felony warrant for his arrest. When the officers attempted to arrest Leos, he had fled in the truck, striking Officer McGough with the truck and dragging him. Officer Cornejo had fired his hand gun at Leos in an apparent attempt to stop him from injuring Officer McGough.

Officer Cornejo had been removed from the scene but he returned with a Legal Defense Fund attorney in order to conduct a walk-through of the scene. I accompanied Detective Depascale as he conducted the walk-through with Officer Cornejo. Detective Depascale later provided me with CD copies of all of the interviews and radio traffic related to this incident and all written reports. I reviewed the reports. Based on the interviews provided to detectives by Officer McGough and Officer Cornejo, and the suspect Leos, I determined it was not necessary to conduct further interviews with either officer.

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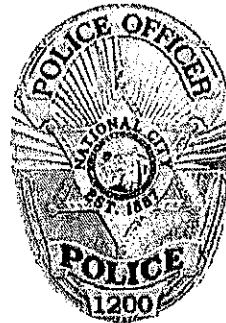
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WITNESS OFFICER INTERVIEW:

Officer McGough's below statement is an excerpt of a report written by Detective Fernando on 4/18/15. Refer to the attached CD recording of the interview for further details.

Officer McGough responded to the 2700 block of East 17th Street to investigate a report of a suspicious vehicle parked in a dirt canyon area. Officer McGough approached the scene via Lanoitan Avenue. Officer McGough arrived on scene and found a dark blue Chevy Silverado with no plates, parked facing northbound on the dirt road. The truck was loaded with numerous personal items in it.

Officer McGough approached the driver's side from the back of the vehicle and saw that it was occupied by a Hispanic male adult in the driver's seat, a female adult in the passenger seat, and an infant in the backseat. (The male adult was later identified as Jesus Leos. The female adult was later identified as [REDACTED]. The infant was later identified as [REDACTED]. Leos had red, bloodshot eyes and appeared to be crying. [REDACTED] and [REDACTED] were asleep.

Officer Cornejo arrived on scene as a cover officer and walked up to the passenger side of the vehicle. Officer McGough spoke with Leos. Leos did not have any ID and provided his name and DOB. Leos had a marijuana pipe in his hand and admitted that he had smoked some weed.

Leos said that they were homeless and sleeping in the car. Officer McGough used his police radio to conduct a records check of the occupants. Moments later, NCPD Dispatch asked him to [REDACTED]. Officer McGough walked to the back of the truck so that the occupants of the vehicle would not hear the radio transmission. Dispatch advised that Leos was "[REDACTED]", wanted for a felony warrant. Upon hearing the radio transmission, Officer Cornejo pointed his firearm at Leos and ordered him not to move. Officer McGough walked back up to the driver's side of the vehicle. Leos started to roll

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up the driver's side window. Officer McGough grabbed the window to prevent it from going up and pointed his [REDACTED] at Leos through the window.

Leos started up the engine to the truck. Officer Cornejo was yelling "Stop!" to Leos, but Leos did not comply. Officer McGough opened up the driver's side door to stop Leos from driving away. Leos put the truck in reverse and gunned the engine. Officer McGough [REDACTED] the [REDACTED] at Leos and believed that the [REDACTED] struck Leos because Officer McGough heard Leos groaning. Leos continued to drive away, trapping Officer McGough between the open door and a chain link fence. Officer McGough turned and tried to run along the side of the truck, but was knocked down and was dragged for an unknown distance by the truck.

Officer McGough heard Officer Cornejo yell something and then at least [REDACTED] gunshot. The vehicle drove off east through the dirt alley.

Officer McGough did not fire any shots during this incident. Officer McGough sustained abrasions to the left leg and left forearm during this incident. Officer McGough does not believe that he was run over.

Leos was not fighting the officers. He appeared to be trying to get away.

Officer McGough has never contacted the suspect vehicle or the occupants before.

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SUSPECT INTERVIEW:

The following is an excerpt of a report written by Detective Depascale on 4/28/15. Refer to the attached CD recording of the interview for further details.

STATEMENT OF SUSPECT JESUS LEOS

On 04-16-15, at approximately 1835 hours, Detective Zeferino and I spoke with Jesus Leos at Scripps Hospital in Hillcrest.

I read Leos the Miranda Warning. Leos answered, "Yes" or "Yes Sir" to understanding his rights. I asked Leos, "Having your rights in mind do you want to tell me your side of the story of what happened today?" Leos replied, "Yes, I do."

Leos expressed a great deal of concern for the physical state of Officer McGough. Leos did not know if Officer McGough was dead or alive.

Leos signed a consent form authorizing NCPD to search his mobile telephones. He also signed a consent form authorizing NCPD to access his medical records.

STATEMENT OF JESUS LEOS:

Leos was with his girlfriend, [REDACTED] and her son [REDACTED]. Leos has known [REDACTED] for several months. They were in the process of looking for a place to stay, but in the meantime were sleeping in the truck. They had been living out of the truck for approximately one week. The area where Leos parked the truck was "closed off" and in a "secluded area." Leos is familiar with the area because he grew up in Lincoln Acres.

At approximately 0800 hours, Leos was approached by two officers. Leos was stoned and was surprised by the officers. One of the officers was white and the other was Hispanic. The white officer stood at the driver's side door and the Hispanic officer stood near the passenger's side door. The officers stood close to the truck, maybe a foot away at the

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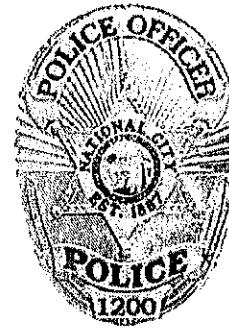
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most. Leos was seated in the driver's seat, [REDACTED] was seated in the front passenger's seat, and [REDACTED] was laying down in the back seat. [REDACTED] seat was reclined.

One of the officers said, "Hello. How are you doing?" The officer then began to question Leos about why he was in the alley and explained dispatch received a complaint from neighbors in the area. As the officer spoke, Leos was trying to conceal a marijuana pipe in the door compartment. Leos believed the officer noticed what he was doing. Leos told the officers he didn't have a place to stay so he had been sleeping in the parked truck.

The first thing Leos thought of was his children. He also thought about how he didn't want to go back to jail. Leos hates jail so another one of his first initial thoughts was about running away from the police. Leos was panicking and his mind was racing.

Leos gave the officers his name. He knew he was going to jail because he had warrants. Dispatch gave the officers a code. As soon as dispatch gave the officers the code, the Hispanic officer drew his weapon.

Leos panicked and grabbed the steering wheel. One of the officers said, "Whoa! Hey, no, hey! Stop motherfucker or I'm going to blow your fucking head off." Leos did not stop after heard the commands because he was scared and wanted to get away.

The white officer pulled out his weapon, aimed it at Leos, and then put the weapon away. The same officer pulled out his [REDACTED] and aimed it. Leos started the ignition, put the truck in reverse, and began to back up. Leos saw the white officer wasn't near the truck so he thought it was an opportune time to "take off." The white officer tazed Leos and grabbed the truck. Leos "floored it." The white officer opened the driver's side door when he saw Leos was getting away. Leos remembers the officer hitting the ground back first. The door of the truck is what flung the officer to the ground. Leos thought to himself, "What the hell am I doing? Did I just kill this guy?" Leos saw the officer on the ground and thought he ran him over.

At about this point, Leos was shot in his arm. Leos only remembers hearing [REDACTED] gunshot. Leos fell out of the truck as he was backing up. Leos got back into the truck and

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continued driving in reverse. He then drove through a fence which bordered a church parking lot. Leos drove through the church parking lot toward Granger Avenue. Leos turned on Fenton place and drove through a second fence. He parked the truck and ran away, leaving [REDACTED] and [REDACTED] behind. Leos ran south and ended up in a cemetery. His arm was dangling. He kept falling and broke a rib. The whole time Leos was thinking, "What the hell am I doing?" Leos knows if he would have stopped the officer would not have had to shoot.

While Leos was hiding in the cemetery, he heard helicopters and was losing a lot of blood. When the officers found Leos he was happy because he was dying.

When the bag of bullets found at the scene was described to Leos he said the bag belonged to his cousin. Leos admitted however his fingerprints would be found on one of the bullets. Leos speculated the bag of bullets fell out of the truck at some time. Leos then became vague and evasive as the questioning about the bullets continued. Initially Leos said his cousin put the bullets in the truck. Later, Leos said he didn't remember how the bullets got into the truck because he smokes "crystal." Then, Leos said he himself put the bullets in the truck after his cousin, [REDACTED] gave them to him.

The truck Leos had been driving was given to him by a "homie." Leos told the "homie" who he knows from a neighboring gang, that he didn't have a place to stay and needed to use it. Leos had been driving the truck for a couple of days and did not get pulled over by the police. Leos thought the truck might have been stolen.

Leos refuted the statements [REDACTED] gave about being held against her will.

Leos apologized to Officer McGough.

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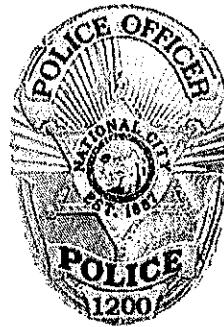
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SUBJECT OFFICER INTERVIEW:

Officer Cornejo's below statement is an excerpt of a report written by Detective Fernando on 4/18/15. Refer to the attached CD recording of the interview for further details.

BACKGROUND:

Officer Cornejo has been a NCPD Police Officer since January 18, 2005. He is currently a patrol officer and has held the following duties: SRO, SWAT and NTF. Officer Cornejo does not wear prescription glasses and he slept approximately 8 hours on the night before the incident of the OIS. Officer Cornejo has never encountered suspect Jesus Leos before.

WEAPON INFORMATION:

Officer Cornejo was issued a [REDACTED] handgun with [REDACTED] round magazines on his hire date. This is the same weapon that he still carries. The weapon has not been modified. Each magazine was fully loaded with [REDACTED] duty issued rounds and [REDACTED] round was loaded in the chamber. Officer Cornejo did not experience a malfunction on the day of the OIS.

INCIDENT DESCRIPTION:

On 4/16/15, at about 0815 hours, Officer Stephens responded as the [REDACTED] officer to the 2700 block of East 17th Street to investigate a report of a suspicious vehicle. The RP believed that the occupants in the vehicle might include [REDACTED] who she had a TRO against. Officer Cornejo was assigned as the [REDACTED] officer. Officer McGough responded on his own initiative and was the first officer on scene. Officer Cornejo responded from 16th and Euclid and turned into the area from Lanoitan Avenue.

Upon arrival, Officer Cornejo noticed that the suspect truck was parked facing northbound in the alcove. The area was a dirt road with rough terrain and tight quarters due to a chain link fence. Officer McGough's police vehicle was parked further behind the suspect truck. Officer McGough was on the driver's side making contact with the

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driver. Officer Cornejo approached on the passenger side of the suspect vehicle. A Hispanic male adult, (later identified as Jesus Leos), was sitting in the front driver seat. Leos, who was wearing a black shirt, had numerous tattoos on his arms including "NC" and "A". Based on his training and experience as a police officer, Officer Cornejo immediately recognized these tattoos as criminal gang tattoos, signifying affiliation with "National City" and "Acres" of the Lincoln Acres area. An Asian or Hispanic female adult, approximately 19 years old, (later identified as [REDACTED]) was sitting in the front passenger seat. There was a young toddler asleep on the back seat of the truck. (The toddler was later identified as [REDACTED]).

Officers McGough and Cornejo asked Leos a series of questions relating to the ownership of the truck, a marijuana pipe and 2" knife that Leos had in his possession. Officer Cornejo was weary about the knife and told Leos not to handle it.

Leos' answers were vague and evasive and Leos appeared to get more nervous as Officer McGough continued to ask questions. Officer Cornejo noticed that Leos checked his mirrors as if he was looking for an escape route. Leos was also sweating and he kept moving his hands. Officer Cornejo tried to ask [REDACTED] questions, but her responses were also vague. Officer Cornejo believed that [REDACTED] was afraid to answer any questions while in the presence of Leos.

Using the police radio, Officer McGough conducted a records check for wants/warrants on the vehicle and the occupants. Moments later, NCPD Dispatch announced that Leos was '[REDACTED]', wanted for a felony warrant. At that moment, Leos began to handle the keys to the vehicle and turned on the vehicle engine. Officer Cornejo drew his service weapon, called for more units and gave verbal commands to Leos.

Officer McGough opened the driver's side door and tried to pull Leos outside of the vehicle. Leos ignored the verbal commands given to him by the officers. Leos backed up the vehicle at a high rate of speed, trapping Officer McGough in the open door, knocking him down and dragging him on the ground.

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Location of Incident: 2700 E. 17th Street, National City

Subject: Officer Involved Shooting

Officer Cornejo believed that Leos was trying to kill Officer McGough. In response, Officer Cornejo shot [REDACTED] rounds at the [REDACTED] [REDACTED] fleeing vehicle. Leos continued to back the car toward a chain link fence trapping Officer McGough between the moving vehicle and the fence. Officer Cornejo continued to fear that Leos was going to kill Officer McGough. Thus, Officer Cornejo fired an [REDACTED] shots at Leos through the open passenger window since [REDACTED] had reclined back in her seat, giving Officer Cornejo a clear shot at Leos. Leos continued to back up dragging Officer McGough towards a dead palm tree. Officer McGough was dragged about 20 feet, then was released from the vehicle as the vehicle continued to move backwards. The vehicle stopped and started to go forward towards Officer McGough and Officer Cornejo. Fearing that Officer McGough and Officer Cornejo were going to be killed, Officer Cornejo fired more rounds at Leos.

At some point, Leos opened the door and said something similar to "You hit me". Leos continued to back up in the dirt alley up a hill, then went forward and crashed through a fence to the church. Leos drove away at a high rate of speed without stopping at the intersection of 1800 Granger and continued southbound toward Granger Junior High School.

After Leos drove away, Officer Cornejo called for assistance on the radio and looked over at Officer McGough. Officer McGough was lying face down and not moving. Officer Cornejo thought that Officer McGough was dead. Officer McGough began to get up. Officer McGough was disoriented and asked about his [REDACTED]. Officer Cornejo noticed Officer McGough's [REDACTED] laying on the ground. The [REDACTED] to the [REDACTED] were exposed as if the [REDACTED] had been [REDACTED].

After the incident, Officer Cornejo was worried about the welfare for the baby that was in the truck.

Completed By: D.Bavencoff ID#: 379 Division: Internal Affairs Date: 9/30/15

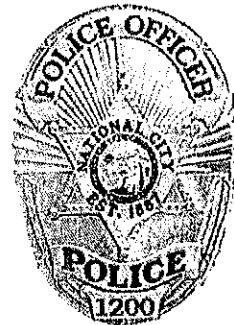
15

** Reviewing Lieutenant's signature on last page is indicative that the underlying Lieutenant has reviewed the investigation in its entirety. **

National City Police Department
Investigator's Report

Tracking # 15-5-D

Page 16 of 17



Date of Incident: 4/16/2015

Time of Incident: 0823

Location of Incident: 2700 E. 17th Street, National City

Subject: Officer Involved Shooting

CONCLUSIONS/FINDINGS:

NCPD Operating Procedure #52 states in part: "Deadly force against any person, including a fleeing felon, may only be used when an officer reasonably believes that the action is necessary as a means for: self-defense from death or serious injury; defense of another officer from death or serious injury . . ." Officers McGough and Javier Cornejo attempted to arrest Jesus Leos for a felony warrant. Leos attempted to escape by rapidly accelerating the truck he was driving in reverse. The truck struck Officer McGough, knocked him to the ground, and drug him. Officer Cornejo gave Leos verbal commands to stop, but Leos did not. Officer Cornejo reasonably believed Officer McGough would be killed by Leos' actions. Leos himself stated he believed he had possibly killed Officer McGough. The investigation revealed Officer Cornejo fired [REDACTED] rounds at Leos and the truck in an attempt to stop Leos from killing or seriously injuring Officer McGough.

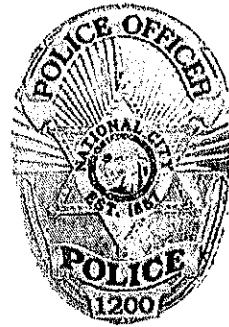
Based upon the totality of the circumstances, Leos clearly represented an immediate threat to both officers and his actions subjected the officers to the real possibility of death or serious injury. Officer McGough in fact sustained serious injury as the result of Leos' actions. The use of deadly force by Officer Cornejo was in accordance with the Policies and Procedures of the National City Police Department and his action are "Exonerated."

Completed By: D.Bavencoff ID#: 379 Division: Internal Affairs Date: 9/30/15

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** Reviewing Lieutenant's signature on last page is indicative that the underlying Lieutenant has reviewed the investigation in its entirety. **

National City Police Department
Investigator's Report



Tracking # 15-5-D

Page 17 of 17

Date of Incident: 4/16/2015

Time of Incident: 0823

Location of Incident: 2700 E. 17th Street, National City

Subject: Officer Involved Shooting

DOCUMENTATION:

- Copy of report written by Detective Fernando, NCPD Case # 1502213
- Copy of reports written by Detective Depascale, NCPD Case # 1502213
- Copies of CDs containing recording of interviews, NCPD Case #1502213
- NCPD Complaint and Tracking Form
- CD containing copy of this report

Completed By: D.Bavencoff ID#: 379 Division: Internal Affairs Date: 9/30/15

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Reviewing Lieutenant: ✓ ID# 294 Division: OPS SUP/IV Date: 10/5/15

**Reviewing Lieutenant's signature indicative that entire investigation was reviewed. **

San Diego Sheriff's Department

JESUS RODRIGUEZ
ASSISTANT DISTRICT ATTORNEY

OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO

15-5-D

San Diego
330 West Broadway
San Diego, CA 92101
(619) 531-4040

BONNIE M. DUMANIS
DISTRICT ATTORNEY

<http://www.sandiegoda.com>

February 16, 2016

Chief Manuel Rodriguez
National City Police Department
1200 National City Boulevard
National City, CA 91950-4302

Re: Non-fatal shooting of Mr. Jesus Gustavo Leos, Jr. on April 16, 2015 by National City Police Officer Javier Cornejo; National City Police Department Case No. 1502213; DA Special Operations Case No. 15-047PS; Deputy District Attorney assigned: DDA David T. Grapilon

Dear Chief Rodriguez:

We have reviewed the reports and other materials compiled by your agency's Investigations Division concerning the circumstances leading to the non-fatal shooting of Mr. Jesus Gustavo Leos, Jr. by National City Police Officer Javier Cornejo on April 16, 2015. District Attorney Investigators responded to the scene and were briefed by your officers. The completed case investigation was presented to the District Attorney's Office for review on October 28, 2015.

Summary

Officers McGough and Cornejo responded to a call of a suspicious vehicle. McGough contacted Mr. Jesus Leos in the driver's seat of a full-sized truck. The vehicle was also occupied by an adult female and an infant. Officer McGough conducted a records check on Leos. When Leos heard over the police radio he was wanted for warrants, he started the engine and began to back up. Officer John McGough opened the truck's driver door and fired his [REDACTED] at Leos as Leos accelerated in reverse. McGough was knocked down by the open door and dragged several yards. Officer Cornejo saw McGough being dragged by the truck and fired at Leos, [REDACTED]. [REDACTED] Leos then drove towards Cornejo who fired additional rounds. Leos escaped from the immediate area, abandoned the truck, and fled on foot. He was apprehended a short time later and transported to the hospital for treatment to his arm. Leos later told investigators he was aware he had a felony warrant for his arrest and did not want to go back to jail. Leos admitted thinking that he may have killed Officer McGough.

Persons Involved

Mr. Jesus Gustavo Leos, Jr. was 30 years old at the time of this incident and has a listed address in the City of San Diego.

Officer Javier Cornejo had been an officer with the National City Police Department for 10 years when this incident occurred. He was in full uniform and assigned to the Patrol Division.

15-5-D
FEB 2016

Chief Manuel Rodriguez

February 16, 2016

Page 2 of 7

Background

Mr. Jesus Leos and an adult female, hereafter "Witness # 1," who was seated in the front seat, were involved in a romantic relationship for a few months prior to this incident. Leos, Witness #1 and Witness #1's [REDACTED] son had been driving around the National City area in a stolen pick-up truck driven by Leos. Leos, Witness #1 and the child had been living and sleeping in the truck for several days. Leos parked the truck in a secluded area.

Officers McGough and Cornejo were dispatched to investigate a report of a suspicious vehicle parked in the unpaved portion of 2700 East 17th Street. McGough approached the occupied pick-up truck on the driver's side and spoke with Mr. Leos. Cornejo arrived a few moments later and stood on the passenger side of the truck to provide cover. The officers saw Witness #1's toddler asleep in the back seat of the truck. McGough noticed Leos held a marijuana pipe. Leos said he had no identification and the truck had no permanent license plates- just paper dealer plates. (The truck was later found to be a stolen vehicle.) McGough conducted a records search on Leos and the pick-up truck on his portable police radio.

Officer-Involved Shooting

Once the dispatcher broadcast the information regarding Mr. Leos' arrest warrant to Officer McGough, Leos started the engine and began to roll up the driver's side window. McGough tried to prevent Leos from fleeing by pointing his [REDACTED] at Leos and ordering him to stop. Leos began to move the truck in reverse. McGough opened the driver's door and tried to pull Leos from the driver's seat. McGough fired his [REDACTED] at Leos. The open driver's door caught McGough as the truck traveled in reverse. McGough was knocked to the ground. Officer Cornejo fired his pistol at the front passenger tire to stop it. The truck continued backing up at a rapid speed. Cornejo then fired at Leos through the open passenger window, over Witness #1, who was reclined in her seat. Leos was hit in his right arm.

Mr. Leos continued driving away in reverse dragging Officer McGough for approximately 20 feet before McGough fell away from the truck. The truck made a 90 degree turn in reverse and moved east on the dirt road. Leos momentarily slid out of the driver's seat. The truck stopped and briefly drove forward toward Cornejo. Cornejo again fired at Leos. The pick-up truck backed up, stopped, and made an abrupt turn south. It went off the road, crashed through a chain-link fence, sped into a private parking lot, and escaped from the scene. Officers eventually located the stolen truck several blocks away. Leos was found hiding in a cemetery maintenance building further south and was apprehended. He was transported to Scripps Mercy Hospital for treatment of the gunshot wound to his right arm and later booked into the County Jail. Officer McGough was transported to the Kaiser Medical Center Emergency Room, treated for his injuries, and released.

Officer John McGough's Statement

Officer McGough said he and Officer Cornejo responded to investigate a report of a suspicious vehicle parked near the dirt canyon area of East 17th Street. McGough arrived first and began speaking with the driver of the dark colored pick-up truck, who identified himself as Jesus Leos. McGough said there was a chain link fence running along the driver's side of the pick-up truck.

Chief Manuel Rodriguez

February 16, 2016

Page 3 of 7

McGough stood between this fence and the driver's side of the truck. McGough saw a female, later identified as Witness #1 in the passenger seat while a small child slept in the back seat. Cornejo arrived shortly thereafter and stood near the passenger side of the truck.

Mr. Leos told Officer McGough he and his family were homeless and were trying to figure out where they were going to stay before McGough approached them. McGough noticed a marijuana pipe in Leos' hand and Leos admitted he smoked some marijuana. McGough conducted a records search on his portable radio. When the police dispatcher asked McGough if he was clear to receive information, McGough stepped away from Leos and walked back toward the bed of the truck. The dispatcher alerted McGough about a felony arrest warrant for Leos.

Officer McGough returned to the driver's door and saw Mr. Leos rolling the window up. McGough drew his [REDACTED] and pointed it at Leos through the window. Leos started the truck's engine. McGough opened the driver's door, but Leos accelerated in reverse. McGough fired his [REDACTED] and struck Leos, who made a groaning sound. The truck continued traveling in reverse but McGough was trapped between the open driver's door and the chain-link fence. McGough ran alongside the truck as it sped backwards but at some point he fell down. McGough felt himself being dragged for some distance. McGough said there was dust and dirt flying everywhere and he became disoriented. McGough heard Officer Cornejo yelling at Leos and at least one gunshot. The truck backed away and McGough tried to get up to help Cornejo, but McGough had trouble standing.

Officer Javier Cornejo's Statement

Officer Cornejo said he responded to a radio call of a suspicious vehicle parked in the dirt alley on East 17th Street. Officer McGough arrived on the scene before Cornejo. Cornejo described the area as rough terrain. Cornejo stood next to the passenger side of the truck to provide cover, but was having difficulty maintaining his balance due to an upward sloping dirt embankment.

Officer Cornejo saw a female reclined in the front passenger seat. Cornejo saw a baby sleeping face-down in the back seat of the truck. The driver could not verify the ownership of the truck and gave suspicious stories as to who owned it. Officer McGough stepped away from the driver door and conducted a records search on the driver and passenger. Cornejo noticed the driver appeared to be nervous and was looking around, paying particular attention to the rearview and side view mirrors of his truck.

The police dispatcher broadcast an alert for the driver, indicating he had a felony warrant for his arrest. Officer Cornejo suspected the driver recognized the police radio code because he started the engine. Cornejo pointed his pistol at the driver and ordered him to stop the engine. Officer McGough opened the driver's door and tried to pull the driver out of the truck. At that point, the driver accelerated in reverse. The open driver's door knocked McGough to the ground. Cornejo [REDACTED] but the truck continued accelerating in reverse and dragged McGough alongside. Cornejo thought McGough had been run over and was probably dead. Cornejo saw the female passenger was still in a reclined

position. Cornejo moved alongside of the truck and saw he had a clear shot of Mr. Leos. Cornejo fired through the open passenger window, over the female, and at the driver.

The truck made an eastbound turn up the dirt road and momentarily stopped. The driver had his foot outside of the door and yelled something like, "You hit me!" The truck briefly drove forward toward Officer Cornejo. Cornejo saw Officer McGough was still down on the dirt road, in the path of the truck. Cornejo fired again at Mr. Leos. The pick-up truck backed up, stopped, and then made an abrupt turn south. It went off the road, crashed through a church fence and sped away at high speed. Cornejo believed he fired seven to eight rounds from his pistol.

Mr. Jesus Leos' Statement

Mr. Leos said he, Witness #1, and Witness #1's son were approached by two officers. Leos said a Caucasian officer (McGough) stood near the driver's door and questioned him while a Hispanic officer (Cornejo) stood near the passenger door. Leos admitted he had a marijuana pipe in his hand and the officer saw it. Leos knew he had a warrant outstanding for his arrest and dreaded going to jail. Leos heard the police dispatcher broadcast a code to alert the officers about his warrant. Leos panicked and started the engine. Leos started driving away in reverse, and opened the driver's door and fired his [REDACTED] striking Leos. Leos continued to speed away. Leos saw the open driver's door hit McGough. Leos saw McGough fall and thought to himself, "Oh my God. What am I doing? Here I just killed this guy." At that point, Cornejo fired one shot and struck Leos in his right arm. Leos continued backing the truck away from the scene and at one point fell out of the driver's seat of the pick-up truck. Leos shouted that he had been shot. Leos said he got up and climbed back into the driver's seat of the truck and then drove off the dirt road to make his escape.

Mr. Leos apologized and stated he intended to flee because he was on probation and admitted smoking marijuana and crystal meth. Leos said he suspected the truck might have been stolen. Leos said the bag of ammunition later found near the truck would probably have his fingerprints on it.

Witness #1's Statement

Witness #1 said she had been involved in a relationship with Mr. Leos for about 4 months. Leos told her he was a fugitive. She and her [REDACTED] son had been riding in Leos' pick-up truck throughout the previous night and she suspected the truck was stolen. Leos warned Witness #1 that he was going to go "on the run" from the police. Witness #1 wanted to break up with Leos and asked Leos to let her leave with her son. She claimed Leos forced her to stay in the truck.

At about 6:00 a.m. they stopped on a dirt road to sleep. Mr. Leos smoked some marijuana while Witness #1 and her son slept. A short time later, two police officers approached them. One officer stood near Leos while the other officer stood near Witness #1's door. The officer closest to Leos noticed he had been smoking marijuana. After obtaining Leos' information, the officer stepped away from the truck. Leos started the truck's engine. The officers were ordering Leos to shut off the engine. Leos replied, "I didn't do anything wrong." The officer warned Leos he would use his [REDACTED]. Witness #1 said the officer opened the driver's door as the truck moved

backward. The officer fired his [REDACTED] and struck Leos. Witness #1 felt the truck moving in reverse and turning onto the dirt road. Witness #1 heard a gunshot and saw Leos had fallen out of the driver's seat. Leos was holding onto the steering wheel with his right hand and holding onto the armrest from the open door with his left hand. The truck stopped and Leos climbed back into the truck. Witness #1 reached into the backseat and brought her son onto her lap. Witness #1 huddled over her son as the truck sped away. Witness #1 then climbed into the backseat with her son. The truck crashed through a gate and left the scene through a church parking lot. Witness #1 said she tried to leave with her son but Leos grabbed her by the hair and prevented her from leaving. Leos eventually stopped the truck and ran away. Witness #1 called her ex-boyfriend to pick her up and he brought them to his house.

Investigation

The scene was secured and the investigation into the shooting was conducted by the National City Police Department's Investigations Division. Crime scene photographs, crime reports, computerized crime data research, witness interviews, and toxicology reports were accessed for this review.

It appears Officer Cornejo fired either [REDACTED] or [REDACTED] rounds. Investigation revealed [REDACTED] round struck the [REDACTED] [REDACTED] [REDACTED] round struck Mr. Leos in his right arm. Five [REDACTED] caliber casings were recovered from the area of Cornejo's stated firing positions. According to Cornejo, his weapon carried [REDACTED]. A detective took custody of Cornejo's loaded weapon at the scene after the shooting and it contained [REDACTED]. The crime scene investigator described the area of the shooting as rough terrain with overgrown brush, so the possibility of an unrecovered casing is high.

A nearby resident gave investigators a small canvas pouch containing a box of handgun ammunition that he found a day before in the area of Mr. Leos' initial contact by officers. Leos later admitted he left the pouch there. A records search of the 2007 Chevrolet Silverado pick-up truck driven by Leos revealed it was stolen from the unincorporated area of Lincoln Acres on February 10, 2015.

There was no law enforcement video because the National City Police Department had not deployed cameras at the time of this shooting.

A toxicological exam of a blood sample taken from Mr. Leos at the hospital revealed that opiates, methamphetamine, and marijuana were in Leos' blood at the time of this incident.

Criminal Filing

On May 12, 2015, Mr. Leos pled guilty to 245(c) PC (Assault with a Deadly Weapon on a Peace Officer) and 273a (a) PC (Child Abuse). On July 15, 2015, Leos was sentenced to State Prison for five years and four months.

Legal Analysis

This review was conducted pursuant to the joint protocol between this office and all San Diego law enforcement agencies calling upon the District Attorney to conduct an independent assessment of the circumstances surrounding the use of deadly force.

Under California law, peace officers may use deadly force to protect themselves from the threat of death or great bodily harm and to use reasonable force in making an arrest. California Penal Code section 835a allows an officer to use reasonable force to make an arrest and to overcome resistance by a person for whom he has reasonable cause to believe has committed a public offense. That section states the officer need not retreat or end his effort to make an arrest because of that person's resistance. Penal Code section 196 declares that homicide is justifiable when committed by public officers when necessarily committed in overcoming actual resistance in the discharge of any legal duty.

In accordance with Penal Code section 196, peace officers may use deadly force in the course of their duties under circumstances not available to members of the general public. We are mindful, however, that certain limits on the use of deadly force apply to peace officers. The U.S. Ninth Circuit Court of Appeals, in the case of *Scott v. Henrich* (9th Cir. 1994) 39 F.3d 912, delineated those circumstances under which deadly force may be used:

[P]olice may use only such force as is objectively reasonable under the circumstances. An officer's use of deadly force is reasonable only if 'the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.' All determinations of unreasonable force 'must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation.'" [Citations omitted.]

Irrespective of any laws applicable to situations where peace officers use deadly force in accomplishing their duties, the law of self defense is available to any person.

Conclusions

During this incident, Officers McGough and Cornejo approached the pick-up truck occupied by Mr. Leos and his passengers in response to a citizen report of suspicious activity. After hearing the police radio broadcasting an alert, Leos drove in reverse and dragged McGough alongside the truck. Cornejo saw this and reasonably believed Officer McGough was at risk of serious injury or death. Cornejo fired at Leos in defense of McGough. After McGough came free and lay on the ground, the truck stopped momentarily but drove toward Cornejo and McGough. Cornejo again fired at Leos in reasonable fear for his safety and the safety of his fellow officer until Leos drove off the road and made his escape. Leos admitted later that he was trying to escape and thought he killed Officer McGough.

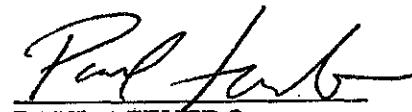
Chief Manuel Rodriguez
February 16, 2016
Page 7 of 7

Based on these circumstances, it is apparent that Officer Cornejo fired in defense of Officer McGough and in defense of himself. Officer Cornejo therefore bears no criminal liability for his actions.

A copy of this letter, along with the materials submitted for our review, will be retained in our files.

Sincerely

BONNIE M. DUMANIS
District Attorney


PAUL AZEVEDO
Chief, Special Operations Division

BMD:jh

INCIDENT NUMBER		SAN DIEGO REGIONAL ADDITIONAL VICTIMS/WITNESSES/OTHERS						PAGE 1 OF 6		CASE NUMBER 1502213		
LOCATION OF INCIDENT, CITY STATE ZIP 2700 E 17TH ST, NATIONAL CITY, CA 91950								BEAT 23	DISTRICT	DATE 4/16/2015 - 4/22/2015		
VICTIM / WITNESS	V	W-TYPE	VICTIM'S NAME (LAST, FIRST MIDDLE / OR ORGANIZATION) DC 16 MCGOUGH, J									
	RESIDENCE ADDRESS, CITY STATE ZIP								PHONE (Work) (619) 336-4411			
	RACE	SEX	DATE OF BIRTH	ID TYPE	ID NUMBER NC 448	ID TYPE	ID NUMBER	INTERPRETER?/LANGUAGE		RELATION TO: VICTIM SUSPECT No S		
	STATUS E	EMPLOYER / SCHOOL NCPD			OCCUPATION / RANK / GRADE OFFICER			DAYS OFF Vary		WORK HOURS Vary		
BUSINESS ADDRESS, CITY STATE ZIP 1200 NATIONAL CITY BL, NATIONAL CITY, CA 91950								PHONE		V/W ASSIST N		
ADDITIONAL INFORMATION (VICTIM VEHICLE INFO. IF APPLICABLE)												
VICTIM / WITNESS	V	W-TYPE	VICTIM'S NAME (LAST, FIRST MIDDLE / OR ORGANIZATION) DC 16 CORNEJO, J									
	RESIDENCE ADDRESS, CITY STATE ZIP								PHONE (Work) (619) 336-4411			
	RACE	SEX	DATE OF BIRTH	ID TYPE	ID NUMBER NC 427	ID TYPE	ID NUMBER	INTERPRETER?/LANGUAGE		RELATION TO: VICTIM SUSPECT No S		
	STATUS E	EMPLOYER / SCHOOL NCPD			OCCUPATION / RANK / GRADE POLICE OFFICER			DAYS OFF Vary		WORK HOURS Vary		
BUSINESS ADDRESS, CITY STATE ZIP 1200 NATIONAL CITY BL, NATIONAL CITY, CA 91950								PHONE		V/W ASSIST N		
ADDITIONAL INFORMATION (VICTIM VEHICLE INFO. IF APPLICABLE)												
VICTIM / WITNESS	V	W-TYPE	VICTIM'S NAME (LAST, FIRST MIDDLE / OR ORGANIZATION) 16 FERNANDO, V									
	RESIDENCE ADDRESS, CITY STATE ZIP 1200 NATIONAL CITY BL, NATIONAL CITY, CA 91950								PHONE (Work) (619) 336-4411			
	RACE	SEX	DATE OF BIRTH	ID TYPE	ID NUMBER NC 414	ID TYPE	ID NUMBER	INTERPRETER?/LANGUAGE		RELATION TO: VICTIM SUSPECT No S		
	STATUS E	EMPLOYER / SCHOOL NCPD			OCCUPATION / RANK / GRADE DETECTIVE			DAYS OFF Vary		WORK HOURS Vary		
BUSINESS ADDRESS, CITY STATE ZIP 1200 NATIONAL CITY BL, NATIONAL CITY, CA 91950								PHONE		V/W ASSIST N		
ADDITIONAL INFORMATION (VICTIM VEHICLE INFO. IF APPLICABLE)												
VICTIM / WITNESS	V	W-TYPE	VICTIM'S NAME (LAST, FIRST MIDDLE / OR ORGANIZATION)									
	RESIDENCE ADDRESS, CITY STATE ZIP								PHONE			
	RACE	SEX	DATE OF BIRTH	ID TYPE	ID NUMBER	ID TYPE	ID NUMBER	INTERPRETER?/LANGUAGE		RELATION TO: VICTIM SUSPECT		
	STATUS E	EMPLOYER / SCHOOL			OCCUPATION / RANK / GRADE			DAYS OFF		WORK HOURS		
BUSINESS ADDRESS, CITY STATE ZIP								PHONE		V/W ASSIST		
ADDITIONAL INFORMATION (VICTIM VEHICLE INFO. IF APPLICABLE)												
REPORTING OFFICER Fernando	ID# 414	DIVISION	APPROVED BY Smith			ID# 334	DATE AND TIME OF REPORT 04/22/2015 13:41					

INCIDENT NUMBER	SAN DIEGO REGIONAL OFFICER'S REPORT NARRATIVE				PAGE 2 OF 6	CASE NUMBER 1502213
CONTINUED FROM	BEAT 23	DISTRICT	DATE 4/16/2015 - 4/22/2015		DAY OF WEEK Thu - Wed	TIME 07:51
PRIMARY CODE SECTION PC 187*664 - MURDER						
ADDITIONAL CODE SECTION(S)						
LOCATION OF INCIDENT, CITY STATE ZIP 2700 E 17TH ST, NATIONAL CITY, CA 91950						

DETECTIVE'S SUPPLEMENTAL

INVESTIGATION:

On 4/16/15, at about 0845 hours, I received a phone call from my supervisor, Sgt. M. Smith. Sgt. Smith advised me to report to the 1700 block of Lanoitan Avenue to assist with an Officer Involved Shooting (OIS). I responded from the El Cajon Police Department. While enroute, I received a phone call from case agent Detective Depascale. Detective Depascale requested that I divert to Kaiser Hospital at Zion Street to meet with victim Officer McGough who was injured during the incident.

On 4/16/15 at about 0938 hours, I met with Officer McGough in the Emergency Room. Officer McGough was walking from one part of the Emergency Room to bed number [REDACTED]. I noticed that Officer McGough was moving slowly and limping on his left leg. Officer McGough was wearing a white T shirt, blue uniform pants and black duty boots. I immediately noticed that Officer McGough's pants and boots were dusty. Officer McGough told me that he had been transported to the hospital via ambulance. Prior to being transported, NCPD Corporal Wilkins took custody of Officer McGough's police equipment and uniform shirt.

I interviewed Officer McGough and recorded the interview with an audio recording device. I later saved the recording to a CD Rom and impounded it for evidence at NCPD with property tag# I0097990.

STATEMENT OF OFFICER McGOUGH (VICTIM 1)

The following is a summary of my interview with Officer McGough. Refer to the CD Rom for the complete interview.

Officer McGough responded to the 2700 block of East 17th Street to investigate a report of a suspicious vehicle parked in a dirt canyon area. Officer McGough approached the scene via Lanoitan Avenue. Officer McGough arrived on scene and found a dark blue Chevy Silverado with no plates, parked facing northbound on the dirt road. The truck was loaded with numerous personal items in it.

Officer McGough approached the driver's side from the back of the vehicle and saw that it was occupied by a Hispanic male adult in the driver's seat, a female adult in the passenger seat, and an infant in the backseat. (The male adult was later identified as Jesus Leos. The female adult was later identified as [REDACTED]. The infant was later identified as [REDACTED]). Leos had red, bloodshot eyes and appeared to be crying. [REDACTED] and [REDACTED] were asleep.

Officer Cornejo arrived on scene as a [REDACTED] officer and walked up to the passenger side of the vehicle. Officer McGough spoke with Leos. Leos did not have any ID and provided his name and DOB. Leos had a marijuana pipe in his hand and admitted that he had smoked some weed.

Leos said that they were homeless and sleeping in the car. Officer McGough used his police radio to conduct a records check of the occupants. Moments later, NCPD Dispatch asked him to [REDACTED]. Officer McGough walked to the back of the truck so that the occupants of the vehicle

REPORTING OFFICER Fernando	ID# 414	DIVISION	APPROVED BY Smith	ID# 334	DATE AND TIME OF REPORT 04/22/2015 13:41
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INCIDENT NUMBER	SAN DIEGO REGIONAL OFFICER'S REPORT NARRATIVE			PAGE 3 OF 6	CASE NUMBER 1502213
CONTINUED FROM	BEAT 23	DISTRICT	DATE 4/16/2015 - 4/22/2015	DAY OF WEEK Thu - Wed	TIME 07:51
PRIMARY CODE SECTION PC 187*664 - MURDER					
ADDITIONAL CODE SECTION(S)					
LOCATION OF INCIDENT, CITY STATE ZIP 2700 E 17TH ST, NATIONAL CITY, CA 91950					

would not hear the radio transmission. Dispatch advised that Leos was [REDACTED], wanted for a felony warrant. Upon hearing the radio transmission, Officer Cornejo pointed his firearm at Leos and ordered him not to move. Officer McGough walked back up to the driver's side of the vehicle. Leos started to roll up the driver's side window. Officer McGough grabbed the window to prevent it from going up and pointed his [REDACTED] at Leos through the window.

Leos started up the engine to the truck. Officer Cornejo was yelling "Stop!" to Leos, but Leos did not comply. Officer McGough opened up the driver's side door to stop Leos from driving away. Leos put the truck in reverse and gunned the engine. Officer McGough [REDACTED] at Leos and believed that the probes struck Leos because Officer McGough heard Leos groaning. Leos continued to drive away, trapping Officer McGough between the open door and a chain link fence. Officer McGough turned and tried to run along the side of the truck, but was knocked down and was dragged for an unknown distance by the truck.

Officer McGough heard Officer Cornejo yell something and then at least [REDACTED] gunshot. The vehicle drove off east through the dirt alley.

Officer McGough did not fire any shots during this incident. Officer McGough sustained abrasions to the left leg and left forearm during this incident. Officer McGough does not believe that he was run over.

Leos was not fighting the officers. He appeared to be trying to get away.

Officer McGough has never contacted the suspect vehicle or the occupants before.

INJURIES:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] I took photographs of Officer McGough and his injuries while I was at the hospital and later again at NCPD. I later saved these photos to a CD Rom and impounded them for evidence at NCPD with property tag# I0097991.

I spoke with Kaiser Physician, Dr. [REDACTED], MD. Dr. [REDACTED] told me that Officer McGough had the following [REDACTED]. With the consent of Officer McGough, I obtained a copy of his medical records. I later impounded it for evidence at NCPD with property tag# I0097995.

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CONTINUED FROM	BEAT 23	DISTRICT	DATE 4/16/2015 - 4/22/2015		DAY OF WEEK Thu - Wed	TIME 07:51
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INVESTIGATION (CONTINUED):

On 4/16/15, at about 1233 hours, Detective Depascale and I met with Officer Cornejo and his attorney, Amy Gordon in the Conference Room of the Detective Bay. I recorded the interview on an audio recording device. I later saved the recording to a CD Rom and impounded it for evidence at NCPD with property tag# I0097996.

STATEMENT OF OFFICER CORNEJO (VICTIM 2)

The following is a summary of my interview with Officer Cornejo. Refer to the CD Rom for the complete interview.

BACKGROUND: Officer Cornejo has been a NCPD Police Officer since January 18, 2005. He is currently a patrol officer and has held the following duties: SRO, SWAT and NTF. Officer Cornejo does not wear prescription glasses and he slept approximately 8 hours on the night before the incident of the OIS. Officer Cornejo has never encountered suspect Jesus Leos before.

WEAPON INFORMATION: Officer Cornejo was issued a [REDACTED] handgun with [REDACTED] round magazines on his hire date. This is the same weapon that he still carries. The weapon has not been modified. Each magazine was fully loaded with [REDACTED] duty issued rounds and [REDACTED] was loaded in the chamber. Officer Cornejo did not experience a malfunction on the day of the OIS.

INCIDENT DESCRIPTION: On 4/16/15, at about 0815 hours, Officer Stephens responded as the [REDACTED] officer to the 2700 block of East 17th Street to investigate a report of a suspicious vehicle. The RP believed that the occupants in the vehicle might include her brother, who she had a TRO against. Officer Cornejo was assigned as the [REDACTED] officer. Officer McGough responded on his own initiative and was the first officer on scene. Officer Cornejo responded from 16th and Euclid and turned into the area from Lanoitan Avenue.

Upon arrival, Officer Cornejo noticed that the suspect truck was parked facing northbound in the alcove. The area was a dirt road with rough terrain and tight quarters due to a chain link fence. Officer McGough's police vehicle was parked further behind the suspect truck. Officer McGough was on the driver's side making contact with the driver. Officer Cornejo approached on the passenger side of the suspect vehicle. A Hispanic male adult, (later identified as Jesus Leos), was sitting in the front driver seat. Leos, who was wearing a black shirt, had numerous tattoos on his arms including "NC" and "A". Based on his training and experience as a police officer, Officer Cornejo immediately recognized these tattoos as criminal gang tattoos, signifying affiliation with "National City" and "Acres" of the Lincoln Acres area. An Asian or Hispanic female adult, approximately [REDACTED] (later identified as [REDACTED]) was sitting in the front passenger seat. There was a young toddler asleep on the back seat of the truck. (The toddler was later identified as [REDACTED])

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Officers McGough and Cornejo asked Leos a series of questions relating to the ownership of the truck, a marijuana pipe and 2" knife that Leos had in his possession. Officer Cornejo was weary about the knife and told Leos not to handle it.

Leos' answers were vague and evasive and Leos appeared to get more nervous as Officer McGough continued to ask questions. Officer Cornejo noticed that Leos checked his mirrors as if he was looking for an escape route. Leos was also sweating and he kept moving his hands. Officer Cornejo tried to ask [REDACTED] questions, but her responses were also vague. Officer Cornejo believed that [REDACTED] was afraid to answer any questions while in the presence of Leos.

Using the police radio, Officer McGough conducted a records check for wants/warrants on the vehicle and the occupants. Moments later, NCPD Dispatch announced that Leos was [REDACTED] [REDACTED], wanted for a felony warrant. At that moment, Leos began to handle the keys to the vehicle and turned on the vehicle engine. Officer Cornejo drew his service weapon, called for more units and gave verbal commands to Leos.

Officer McGough opened the driver's side door and tried to pull Leos outside of the vehicle. Leos ignored the verbal commands given to him by the officers. Leos backed up the vehicle at a high rate of speed, trapping Officer McGough in the open door, knocking him down and dragging him on the ground.

Officer Cornejo believed that Leos was trying to kill Officer McGough. In response, Officer Cornejo shot [REDACTED] at the [REDACTED] now fleeing vehicle. Leos continued to back the car toward a chain link fence trapping Officer McGough between the moving vehicle and the fence. Officer Cornejo continued to fear that Leos was going to kill Officer McGough. Thus, Officer Cornejo fired [REDACTED] at Leos through the open passenger window since [REDACTED] had reclined back in her seat, giving Officer Cornejo a clear shot at Leos. Leos continued to back up dragging Officer McGough towards a dead palm tree. Officer McGough was dragged about 20 feet, then was released from the vehicle as the vehicle continued to move backwards. The vehicle stopped and started to go forward towards Officer McGough and Officer Cornejo. Fearing that Officer McGough and Officer Cornejo were going to be killed, Officer Cornejo fired more rounds at Leos.

At some point, Leos opened the door and said something similar to "You hit me". Leos continued to back up in the dirt alley up a hill, then went forward and crashed through a fence to the church. Leos drove away at a high rate of speed without stopping at the intersection of 1800 Granger and continued southbound toward Granger Junior High School.

After Leos drove away, Officer Cornejo called for assistance on the radio and looked over at Officer McGough. Officer McGough was lying face down and not moving. Officer Cornejo thought that Officer McGough was dead. Officer McGough began to get up. Officer McGough was disoriented and asked about his [REDACTED]. Officer Cornejo noticed Officer McGough's [REDACTED] laying on the ground. The [REDACTED] to the [REDACTED] were exposed as if the [REDACTED] had been [REDACTED].

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After the incident, Officer Cornejo was worried about the welfare for the baby that was in the truck.

INVESTIGATION (CONTINUED):

At the conclusion of the interview, Officer Cornejo turned in his department owned [REDACTED] along with all of the remaining ammo and magazines that he was carrying on his person. I assisted Detective Depascale with photographing these items. I later saved these photos to a CD Rom and impounded the CD at NCPD for evidence with property tag# I0097992. Officer Cornejo was issued a replacement department owned [REDACTED] handgun and magazines.

EVIDENCE:

PROPERTY TAG#	DESCRIPTION
I0097990	CD-Interview of Officer McGough
I0097991	CD-Photos of Officer McGough
I0097992	CD-Photos of Officer Cornejo's weapon
I0097995	Medical Records of Officer McGough
I0097996	CD-Interview of Officer Cornejo

END OF REPORT.

V. FERNANDO #414

REPORTING OFFICER Fernando	ID# 414	DIVISION	APPROVED BY Smith	ID# 334	DATE AND TIME OF REPORT 04/22/2015 13:41
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REPORTING OFFICER Depascale	ID# 467	DIVISION INV	APPROVED BY Smith	ID# 334	DATE AND TIME OF REPORT 04/28/2015 10:12
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PRIMARY CODE SECTION PC 187*664 - ATTEMPTED MURDER/DEGREE UNSPECIFIED					
ADDITIONAL CODE SECTION(S)					
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ADDITIONAL CODE SECTION(S)					
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ADDITIONAL CODE SECTION(S)						
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ADDITIONAL CODE SECTION(S)					
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PRIMARY CODE SECTION PC 187*664 - ATTEMPTED MURDER/DEGREE UNSPECIFIED					
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PRIMARY CODE SECTION PC 187*664 - ATTEMPTED MURDER/DEGREE UNSPECIFIED					
ADDITIONAL CODE SECTION(S)					
LOCATION OF INCIDENT, CITY STATE ZIP 2700 E 17TH ST, NATIONAL CITY, CA 91950					

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ADDITIONAL CODE SECTION(S)					
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INCIDENT NUMBER	SAN DIEGO REGIONAL ADDITIONAL VICTIMS/WITNESSES/OTHERS						PAGE 1 OF 4	CASE NUMBER 1502213	
LOCATION OF INCIDENT, CITY STATE ZIP 2700 E 17TH ST, NATIONAL CITY, CA 91950						BEAT 23	DISTRICT	DATE 4/16/2015 - 4/18/2015	
VICTIM / WITNESS	W-TYPE W 13	VICTIM'S NAME (LAST, FIRST MIDDLE / OR ORGANIZATION) DEPASCALE, A							
	RESIDENCE ADDRESS, CITY STATE ZIP 1200 NATIONAL CITY BL, NATIONAL CITY, CA 91950						PHONE (Work) (619) 336-4476		
	RACE	SEX	DATE OF BIRTH	ID TYPE NC	ID NUMBER 487	ID TYPE	ID NUMBER	INTERPRETER?/LANGUAGE No	RELATION TO: VICTIM SUSPECT A
	STATUS	EMPLOYER / SCHOOL E CITY OF NATIONAL CITY			OCCUPATION / RANK / GRADE DETECTIVE			DAYS OFF	WORK HOURS
	BUSINESS ADDRESS, CITY STATE ZIP						PHONE V/W ASSIST N		
ADDITIONAL INFORMATION (VICTIM VEHICLE INFO. IF APPLICABLE)									
VICTIM / WITNESS	W-TYPE W 13	VICTIM'S NAME (LAST, FIRST MIDDLE / OR ORGANIZATION)							
	RESIDENCE ADDRESS, CITY STATE ZIP						PHONE		
	RACE	SEX	DATE OF BIRTH	ID TYPE	ID NUMBER	ID TYPE	ID NUMBER	INTERPRETER?/LANGUAGE No	RELATION TO: VICTIM SUSPECT A
	STATUS	EMPLOYER / SCHOOL			OCCUPATION / RANK / GRADE			DAYS OFF	WORK HOURS
	BUSINESS ADDRESS, CITY STATE ZIP						PHONE V/W ASSIST		
ADDITIONAL INFORMATION (VICTIM VEHICLE INFO. IF APPLICABLE)									
VICTIM / WITNESS	W-TYPE W 13	VICTIM'S NAME (LAST, FIRST MIDDLE / OR ORGANIZATION)							
	RESIDENCE ADDRESS, CITY STATE ZIP						PHONE		
	RACE	SEX	DATE OF BIRTH	ID TYPE	ID NUMBER	ID TYPE	ID NUMBER	INTERPRETER?/LANGUAGE No	RELATION TO: VICTIM SUSPECT A
	STATUS	EMPLOYER / SCHOOL			OCCUPATION / RANK / GRADE			DAYS OFF	WORK HOURS
	BUSINESS ADDRESS, CITY STATE ZIP						PHONE V/W ASSIST		
ADDITIONAL INFORMATION (VICTIM VEHICLE INFO. IF APPLICABLE)									
VICTIM / WITNESS	W-TYPE W 13	VICTIM'S NAME (LAST, FIRST MIDDLE / OR ORGANIZATION)							
	RESIDENCE ADDRESS, CITY STATE ZIP						PHONE		
	RACE	SEX	DATE OF BIRTH	ID TYPE	ID NUMBER	ID TYPE	ID NUMBER	INTERPRETER?/LANGUAGE No	RELATION TO: VICTIM SUSPECT A
	STATUS	EMPLOYER / SCHOOL			OCCUPATION / RANK / GRADE			DAYS OFF	WORK HOURS
	BUSINESS ADDRESS, CITY STATE ZIP						PHONE V/W ASSIST		
ADDITIONAL INFORMATION (VICTIM VEHICLE INFO. IF APPLICABLE)									
REPORTING OFFICER Depascale	ID# 487	DIVISION INV	APPROVED BY Smith			ID# 334	DATE AND TIME OF REPORT 04/18/2015 13:06		

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LOCATION OF INCIDENT, CITY STATE ZIP 2700 E 17TH ST, NATIONAL CITY, CA 91950						

Case Synopsis

On 04-16-15, at approximately 0751 hours, the reporting party, [REDACTED] called NCPD because she could see a dark colored pickup truck parked in a turnabout on East 17th Street. [REDACTED] lives on [REDACTED] and could see the vehicle from her home. She believed the vehicle was occupied by her brother, [REDACTED]. [REDACTED] has a restraining order against [REDACTED].

In addition to calling NCPD about the pickup on 04-16-15, [REDACTED] called the day before at approximately 0852 hours. On 04-15, [REDACTED] reported the pickup was parked in the turnabout on 17th Street [REDACTED] behind her house. She said the truck's windows were covered with blankets. Officers were dispatched an hour later. The delay was possibly due to high calls for service and the low priority of the call. When Officers arrived on scene the pickup was not there.

On 04-16-15, at 0818 hours, Officers McGough (badge number 448) and Cornejo (badge number 427) were dispatched to the dirt road at 2700 East 17th Street in National City to check on a suspicious vehicle. Officer McGough arrived at approximately 0823 hours and located a dark blue Chevrolet Silverado parked with the engine off. The Silverado is an extended cab pickup truck with a "Kia of El Cajon" dealer plate affixed to the rear. The doors of the pickup were closed and the front windows were down.

The pickup was parked in a turnabout off of East 17th Street. Officer McGough had parked his vehicle on 17th Street west of the turnabout. The turnabout is at approximately the midway point between Rachael Avenue to the east and Lanoltan Street to the west, it is surrounded on three sides by fencing and brush and is on a slope. The grade of the slope rises as one enters the turnabout from 17th Street.

Officer McGough approached the vehicle and spoke with a male seated in the driver's seat. The male was later identified as Jesus Leos (02-25-85). There was also an adult female in the front passenger's seat and a toddler sleeping in the rear passenger area. The female was later identified as [REDACTED] and the male toddler as [REDACTED]. While Officer McGough was speaking with Leos, Officer Cornejo arrived on scene at approximately 0825. Officer Cornejo drove around Officer McGough's vehicle and parked on 17th Street almost at the mouth of the turnabout.

Officer McGough ran a check of the criminal records of Leos and [REDACTED] through dispatch. Officer Cornejo approached and assumed the role of [REDACTED] officer by [REDACTED]. Officer Cornejo asked [REDACTED] a few questions, but she did not respond. Both officers noticed Leos seemed very nervous. Leos was sweating and looking around nervously. Officer McGough asked Leos if there were any weapons in the vehicle. Leos suddenly reached for a knife stored in a compartment underneath the radio. Officer Cornejo told Leos to put the knife down. Leos placed the knife back into the compartment. Officer McGough asked Leos questions about the truck pertaining to registration and ownership. Leos was evasive in his answers.

Dispatch called Officer McGough with the returns from his records inquiries. Officer McGough took a few steps away from the driver's side door to the rear of the pickup. Dispatch informed Officer McGough that Leos had felony warrant for a weapons related offense. Officer Cornejo heard this radio traffic and pointed his service weapon at Leos.

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Officer McGough moved toward the driver's side door and saw Leos was rolling up the driver's side window. Officer McGough reached for the window and removed his [REDACTED] from the holster. Officer McGough pointed the [REDACTED] at Leos with one hand while trying to keep the window from going up with his other hand. Leos started the pickup. Officers began giving commands such as, "Stop! Stop what you're doing! Don't do it!" Officer McGough opened the driver's door of the truck and shot at Leos with the [REDACTED]. The truck began moving in reverse at a high rate of speed. Officer McGough, moving in the same direction of the pickup truck, tried to run out of the way of the moving vehicle. The open door of the pickup knocked Officer McGough to the ground.

Officer Cornejo, standing on the other side of the truck, saw Officer McGough struck by the vehicle and knocked to the ground. Officer McGough was dragged by the pickup and pinned to a fence that borders the west side of the turnabout. Officer Cornejo fired at [REDACTED] the pickup. This did not seem to have an effect on the mobility of the vehicle as it continued to back up. Officer Cornejo believed Officer McGough was being killed. Officer Cornejo fired through the open passenger's side window at Leos. Officer Cornejo had a clear shot because the front passenger's seat was reclined. Officer Cornejo was walking southbound toward the pickup as he was firing his weapon. The vehicle continued to back up. Officer Cornejo saw Officer McGough laying facedown at the mouth of the turnabout and 17th Street. Officer Cornejo feared Officer McGough was dead or unconscious. The pickup truck now faced Officer Cornejo and Officer McGough as it swerved, in reverse, eastbound onto 17th Street.

The pickup truck stopped momentarily. Officer Cornejo heard Leos yell something but could not recall what he said. The truck lurched forward toward the officers. Officer Cornejo fired his service weapon toward Leos. The pickup again traveled in reverse up an incline eastbound on 17th Street. At the top of the incline, Leos turned the car to face southbound. Leos drove southbound through a chain link fence that separates 17th Street from the parking lot of a church. At approximately 0831, Officer Cornejo broadcasted over his radio, "Shots fired. Officer down."

Officer Cornejo broadcast a description of the pickup and the occupants. Multiple officers from National City and the Sheriff's Department began [REDACTED]. Officers received reports of a bleeding male running away from the scene. The pickup truck was located at 0837 hours parked, unoccupied behind the residence at 2568 Fenton Place. 2568 Fenton Place is slightly more than half a mile from 2700 East 17th Street. There was blood throughout the interior of the vehicle and the front passenger side tire was flat.

Officers began searching a graveyard approximately a half mile away from the address on Fenton Place. They located Leos hiding in a maintenance shed on the graveyard property. Leos suffered from a gunshot wound to his right arm. Leos was apologizing when he was taken into custody. He said he didn't mean for anything to happen to the officer.

[REDACTED] was located at her home by officers at [REDACTED]. [REDACTED] told Detective Zeferino that she had been held against her will by Leos for two days. When [REDACTED] fled from the police after being shot, [REDACTED] tried to jump out of the pickup with her son. Leos prevented [REDACTED] from getting out of the truck by pulling her back in by her hair. After Leos parked the truck and fled toward the graveyard, [REDACTED] called the father of her child, [REDACTED] to pick her up from Fenton Place.

Officer McGough suffered abrasions and contusions. His uniform had what appeared to be drag marks on it. Officer McGough was transported from the scene by ambulance. He was treated for his injuries and released.

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LOCATION OF INCIDENT, CITY STATE ZIP 2700 E 17TH ST, NATIONAL CITY, CA 91950						

Detective Ballardo was handed a bag of ammunition by a male living at the reporting party's home during a witness check. The male told Detective Ballardo that he had found the bag near the turnabout the day before.

A record check of the pickup truck revealed it was stolen.

After counting Officer Cornejo's remaining bullets, I determined he had fired his service weapon [REDACTED]. There were five shell casings located at the scene and one bullet fragment.

On 04-16-15, at 1835 hours, I met with Leos at Scripps Mercy Hospital to interview him. Prior to interviewing him, I read Leos the Miranda warning. He agreed to tell me his side of the story. Leos was very apologetic and said he had no excuse for what he had done. Leos said the first thought he had was to get away from the officers because he had a warrant and did not want to go back to jail. He said he did not mean to hurt anyone but knew his actions could have killed Officer McGough or the occupants of his vehicle. A great deal of what Leos told me corroborated the statements of Officers McGough and Cornejo. Leos admitted his fingerprints and DNA might be found on the bullets found near the scene. He also admitted he thought the pickup was possibly a stolen vehicle.

This is a summary only. A crime case and reports from several other officers will follow.

REPORTING OFFICER Depascale	ID# 487	DIVISION INV	APPROVED BY Smith	ID# 334	DATE AND TIME OF REPORT 04/18/2015 13:06
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SAN DIEGO COUNTY SHERIFF'S DEPARTMENT
REGIONAL CRIME LABORATORY

5255 Mt. Eliza Drive San Diego, CA 92117
(858) 467-4600

- REPORT
ONLY



LABORATORY SERVICE REPORT

REQUESTED BY:	Fernando #414	SDSD CASE #:	15002648
AGENCY/DIVISION:	National City Police Department/INV	AGENCY CASE #:	1502213
SUSPECT(S):	Leos, Jesus Gustavo Jr.	INCIDENT TYPE:	664/187 PC
VICTIM(S):	McGough, J.; Cornejo, J.	INCIDENT DATE:	04/16/2015

SERVICE REQUESTED:

Weapon operability

EVIDENCE SUBMITTED:

Item 2: One [REDACTED] 35 pistol, serial number [REDACTED]
Item 3: One [REDACTED] magazine and [REDACTED] unfired cartridges

EXAMINATION:

Item 2: Item 2 consists of one [REDACTED] semiautomatic pistol, caliber [REDACTED], serial number [REDACTED]. The pistol was examined and test-fired using the magazine from Item 3 and laboratory ammunition. No malfunctions were noted during test-firing. The test-fired components were designated Item 2.01. Item 2 has a maximum capacity of [REDACTED] cartridges when used with the magazine from Item 3. The minimum measured trigger pull for Item 2 was 6 1/4 pounds. The barrel of the pistol exhibits a polygonal six right (6R) rotation rifling pattern.

Item 3: Item 3 consists of one [REDACTED] magazine and [REDACTED] unfired [REDACTED] caliber cartridges. The magazine was used during the examination and test-firing of Item 2. It has a maximum capacity of [REDACTED] cartridges. The unfired cartridges all have copper-jacketed hollow point bullets, nickel-plated cases and brass primers.

CONCLUSIONS:

The [REDACTED] pistol (Item 2) is operable. The magazine from Item 3 is correct for the pistol.

The unfired cartridges from Item 3 are all consistent in design with each other and are all correct for Item 2.

Report on file

2/19

JK

NP

5/20/2015

Page 1 of 2

15002648 (52).docx

SAN DIEGO COUNTY SHERIFF'S DEPARTMENT
REGIONAL CRIME LABORATORY
LABORATORY SERVICE REPORT
SDSD CASE #15002648 (continued)

DISPOSITION OF EVIDENCE:

Items 2 and 3 were resealed in their respective original containers and returned to the Sheriff's Property and Evidence Unit. Item 2.01 was sealed in an envelope and submitted to the Sheriff's Property and Evidence Unit as a derivative item.

Detailed notes of the examination are maintained at the Sheriff's Crime Laboratory and are available upon request.

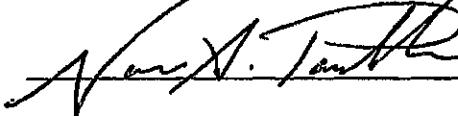
Analyst



Scott Hoopes, Criminalist II #6686

5/20/2015
Date

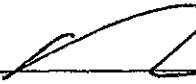
Technical Reviewer



6/2/2015

Date

Administrative Reviewer



Richard Debevec
Supervising Criminalist

6/3/15
Date

National City Police Department
COMMAND STAFF SUPPLEMENTAL
Recommendations Report



I.A. Tracking # 15-05-D

RECOMMENDATIONS:

[REDACTED]

On 4/16/15, at about 0823 hours, officers John McGough and Javier Cornejo contacted Jesus Leos (DOB: 2/25/85) sitting in the driver's seat of a Chevrolet Silverado in the 2700 block of E. 17th Street following a radio call of a suspicious vehicle. Also in the truck were [REDACTED] (DOB: [REDACTED]) and a [REDACTED] boy. Leos was holding a marijuana pipe in his hand and displayed objective symptoms of being under the influence of a controlled substance.

Officer McGough approached the driver's side of the vehicle while Officer Cornejo approached the passenger side. Officer McGough spoke to Leos while Officer Cornejo spoke to [REDACTED]. Both Leos and [REDACTED] were evasive in their responses as to why they were in the area and whether or not the truck belonged to them.

Officer McGough conducted a records check on Leos and was told by NCPD Dispatch that Leos had a felony warrant for his arrest for a weapons related offense. Leos knew he had a warrant for his arrest and appeared to understand from the officers' demeanor and the radio traffic that he was about to be arrested. Leos turned the key in the truck's ignition and started the truck. Officer Cornejo pointed his handgun at Leos and told him to stop. Officer McGough opened the driver's door of the truck and tried to pull Leos out of the truck. Leos put the truck in reverse and began to accelerate backward. Officer McGough [REDACTED] his [REDACTED] at Leos. The [REDACTED] was [REDACTED] and Leos continued to drive quickly in reverse. Officer McGough was struck by the truck, knocked to the ground, and drug.

Officer Cornejo saw Officer McGough being drug by the truck and feared he would be killed. Officer Cornejo fired his [REDACTED] of the truck in an [REDACTED] and stop Officer McGough from being seriously injured or killed.

Completed By: Lt. G. Young ID#: 365 Division: Internal Affairs Date: 02/17/16 1

Approved By: DME ID#: 297 Division: FIELD Date: 4/15/16

National City Police Department
COMMAND STAFF SUPPLEMENTAL
Recommendations Report



The gunshot to the [REDACTED] and it continued to drive in reverse, dragging Officer McGough. Officer Cornejo pointed his handgun at Leos and fired at him in an attempt to prevent Leos from continuing to operate the truck and potentially kill or seriously injure Officer McGough.

Officer McGough broke loose from being drug by the truck and lay motionless on the ground. Leos stopped the truck, put it in drive, and began to drive forward in the direction of Officer Cornejo and Officer McGough. Officer Cornejo believed Officer McGough was dead or unconscious. Officer Cornejo believed Leos was going to attempt to run over him or Officer McGough. Officer Cornejo fired his handgun at Leos in an attempt to protect Officer McGough and himself from death or serious injury.

Leos was struck in the right arm by one of Officer Cornejo's fired bullets. The projectile traveled through Leos' arm and into his chest cavity, but did not prevent Leos from driving away. Leos fled the scene and was arrested about an hour later. He was transported to the hospital and treated for his gunshot wound. He subsequently pled guilty in court to charges related to this incident and was sentenced to prison.

On February 16, 2016, the San Diego County District Attorney's Office sent a "clearance of criminal liability" letter for Officer Cornejo to the National City Police Department's Chief of Police, Manuel Rodriguez.

RECOMMENDATIONS:

I have reviewed Sgt. Bavencoff's investigation, IA #15-05-D, and I concur with his conclusions and his "Exonerated" findings on Allegation of Department Operating Procedure No. 052 regarding the officer involved shooting

Based on the above investigation and findings by Sgt. Bavencoff, it is my recommendation that there should be no further action on this investigative file and the investigative file should be closed.

Completed By: Lt. G. Young ID#: 365 Division: Internal Affairs Date: 02/17/16 2

Approved By: DMC ID#: 291 Division: PAAD Date: 4/15/16

NATIONAL CITY POLICE DEPARTMENT
COMPLAINT AND TRACKING FORM

CITIZEN COMPLAINT
(A) USE ONLY DUE DATE:

VEHICLE DAMAGE REPORT
TRACKING NUMBER: 5-5-1

DEPARTMENT INVESTIGATION

COMMAND ASSIGNED:

FIELD

Name: 4/16/15
Date:

INVESTIGATOR/ FINDINGS:

RAVENCOFF

Name: 9/30/15
Date:

FINDINGS:

- Sustained
- Not Sustained
- Exonerated
- Unfounded
- Withdrawn

TC/DR:

- Preventable
- Not Preventable

Signature
Completion Date:

RECOMMENDATIONS BY:

YOUNG

Name: **UNC**

Date: **04/16/15**

Concur w/Findings:

- Yes
- No

Report Attached:

- Yes
- No

Signature

Completion Date:

02/17/16
ASST. CHIEF / CAPT.

ADJUDICATION:

D. B. BROWN

Name:

Date:

Concur w/Findings and/or Recommendations:

- Yes
- No

Report Attached:

- Yes
- No

Signature

Completion Date:

02/17/16
EMPLOYEE REVIEW:

Name:

ID#:

Appeal Hearing:

- Yes
- No

Date:

CHIEF'S REVIEW:

MANUEL ROBLES

Name:

Date:

Command Disposition:

Upheld:

- Yes
- No

Chief's Signature

Completion Date:

02/17/16

COMPLAINANT

NAME: _____ DOB: _____ SEX: _____ RACE: _____ HGT: _____ WGT: _____

ADDRESS: _____ HOME PHONE: _____

CITY: _____ ST: _____ ZIP: _____ CELL PHONE: _____

EMPLOYED? Yes No OCCUPATION: _____

WITNESS(ES)

ADD. WIT. PAGE Y N

NAME: _____ DOB: _____ SEX: _____ RACE: _____

ADDRESS: _____ HOME PHONE: _____

CITY: _____ ST: _____ ZIP: _____ ALT. PHONE: _____

NAME: _____ DOB: _____ SEX: _____ RACE: _____

ADDRESS: _____ HOME PHONE: _____

CITY: _____ ST: _____ ZIP: _____ ALT. PHONE: _____

INVOLVED EMPLOYEE(S)

ADD. OFF. PAGE Y N

ID#: 427 NAME: CORNEJO ASSIGNMENT: PAT UNIT#:

ID#: 448 NAME: McGOUGH ASSIGNMENT: PAT UNIT#:

ID#: _____ NAME: _____ ASSIGNMENT: _____ UNIT#:

RECEIPT METHOD

IN PERSON PHONE LETTER CPRC INTERNALLY EMAIL OTHER: _____

BY: **RAVENCOFF** ID # 379 ASGN: 1A DATE: 4/16/15 TIME: 0900

INCIDENT LOCATION: 2700 E. 17TH ST. N.C. DATE: 4/16/15 TIME: 0823

RELATED CASE NUMBER: 1502213 AGENCY: NCPD NUMBER OF PHOTOS TAKEN: _____

RECEIPT DISPOSITION: FORMAL INFORMAL FORWARDED TO IA OTHER: _____

SYNOPSIS OF INCIDENT

OFFICER INVOLVED SHOOTING

PAGE 1 OF _____ ADDITIONAL PAGES: YES NO COPY PROVIDED TO CITIZEN: Y N

IA USE ONLY

EMPLOYEE NOTIFICATION BY: **RAVENCOFF** ID# 379 DATE: 4/16/15 METHOD: IN PERSON

IA LOG DATE: 4/16/15 LOGGED BY: **RAVENCOFF** ID# 379

COMPLAINT ALLEGATION:

CATEGORY ONE

- Force
- Arrest
- Criminal Conduct
- Other

CATEGORY TWO

- Procedure
- Service
- Courtesy
- Conduct
- Other

EXTENSION DATE(S):
INV. _____
RECMND. _____

COLLISIONS AND VEH. DAMAGE REPT.:

Vehicle Number:

VDR logged by:

Initially Appears:
 Preventable
 Not Preventable

Prior Preventable TC (Last 5 yrs) (IA):

Copy to Risk Mgr:
 Yes
 No
Date: _____

INV/FINDINGS NARRATIVE FORMAT:

WITNESS LIST SUMMARY
ALLEGATIONS
INVESTIGATION
COMPLAINT INT
CIVILIAN WIT. INT
WIT OFF. INT
SUB. OFF. INT
FINDINGS/CONCLUS.
DOC. LIST

LETTER CODES:

D - Department
C - Citizen Complaint
M - VDR/TC/Dog Bite

COMPLAINANT NOTIFICATION:

- 1st _____
- 2nd _____
- 3rd _____

RETURN TO I.A. BY:

Name: _____

Date: _____



NATIONAL CITY POLICE DEPARTMENT COMPLAINT PROCEDURE FORM



The National City Police Department acknowledges its responsibility to establish a system of complaint and disciplinary procedures which not only subject its employees to corrective action when the conduct is improper, but also protects them from unwarranted criticism when their duties are discharged properly. It is our purpose to work with the community to provide, fair, and expeditious disposal of complaints about the conduct of our employees. The National City Police Department welcomes constructive criticism of our employees. The National City Police Department welcomes constructive criticism of our organization and valid complaints against its members or procedures as well as positive feedback for exemplary service.

We sincerely hope you will never need to make a complaint about our services. Should you need to, however, you may rest assured that we will objectively investigate your complaint, get to the truth, and take corrective action for any misconduct so as to preserve the public trust. Your complaint and concerns will be given the most serious consideration.

ANSWERS TO COMMON QUESTIONS ABOUT OUR COMPLAINT PROCESS

What if I want to make a complaint? If you believe that a member of the National City Police Department has committed an act of misconduct, you may ask to speak to a supervisor. The supervisor will discuss the matter with you and may be able to resolve the issue immediately and to your satisfaction. This is referred to as an inquiry. You may also choose to file a formal complaint. Certain types of complaints may require they be handled formally.

Where do I go to make a complaint? You may get in touch with a supervisor by calling our 24-hour police dispatch phone number at (619) 336-4411. You may also go directly to the lobby of our Police Facility, located at 1200 National City Blvd. in the City of National City, during normal business hours (Monday thru Friday, 7:30am until 5:30pm)

What happens after I file a complaint? If a supervisor handles your complaint informally, the matter will be discussed with the involved employee. The supervisor will provide the employee with correction, guidance or training as necessary. The supervisor may simply explain your position, so that similar instances may be better handled in the future.

If you choose to file a formal complaint, it will be forwarded to the Internal Affairs Unit for processing and assignment. Once your complaint is assigned a tracking number you will receive written confirmation that your complaint has been assigned to an investigator within (7) days. You may be contacted by the investigator for a more detailed interview about your complaint.

Who will investigate my complaint? Complaints are normally assigned to the employee's direct supervisor for investigation. In some circumstances the complaint may be assigned to the Internal Affairs Unit.

What will happen to the involved employee? That depends on what was done and what the circumstances were at the time. If the investigation finds that the employee conduct was improper, the employee may be disciplined.

Will I be told when the investigation is completed? Yes, you will be notified by mail that the investigation has been completed and will be told the disposition. California Penal Code 832.7 requires disciplinary matters to be kept confidential, thus you will not be told the type or amount of discipline imposed.

Written complaints may be submitted on the backside of this form either in person at the National City Police Facility, or by mail to:

National City Police Department
Internal Affairs Unit
1200 National City Blvd.
National City, CA 91950

If you have any additional questions about our complaint process you may contact the Internal Affairs Unit directly at (619) 336-4508.

COMPLAINT WITHDRAWAL

I now believe that the conduct or performance of the involved officer or employee of the National City Police Department was justified, legal or in compliance with the rules, regulations, or procedures of the National City Police Department or state law.

I therefore, withdraw my complaint without fear of any threat, coercion or intimidation.

Signature: _____ Date: _____ Witnessed By: _____ Date: _____

Penal Code 148.6(a)(2) requires the following notification:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE MISCONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZEN'S COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

I have read and understood the above statement. I hereby certify that the above facts are true and correct.

COMPLAINANT'S SIGNATURE

DATE

WITNESSED BY